

Original

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
MARITIME COMMUNICATIONS/LAND) EB Docket No. 11-71
MOBILE, LLC) File No. EB-09-IH-1751
) FRN: 0013587779
Participant in Auction No. 61 and Licensee of)
Various Authorizations in the Wireless Radio) Application File Nos. 0004030479,
Services) 0004144435, 0004193028,
) 0004193328, 0004354053,
Applicant with ENCANA OIL AND GAS (USA),) 0004309872, 0004310060,
INC.; DUQUESNE LIGHT COMPANY; DCP) 0004314903, 0004315013,
MIDSTREAM, LP; JACKSON COUNTY) 0004430505, 0004417199,
RURAL MEMBERSHIP ELECTRIC) 0004419431, 0004422320,
COOPERATIVE; PUGET SOUND ENERGY,) 0004422329, 0004507921,
INC.; ENBRIDGE ENERGY COMPANY, INC.;) 0004153701, 0004526264,
INTERSTATE POWER AND LIGHT) 0004636537, and 0004604962
COMPANY; WISCONSIN POWER AND)
LIGHT COMPANY; DIXIE ELECTRIC)
MEMBERSHIP CORPORATION, INC.;)
ATLAS PIPELINE – MID CONTINENT, LLC)
DENTON COUNTY ELECTRIC)
COOPERATIVE, INC., DBA COSERV)
ELECTRIC; AND SOUTHERN CALIFORNIA)
REGIONAL RAIL AUTHORITY)
)
For Commission Consent to the Assignment of)
Various Authorizations in the Wireless Radio)
Services)

FILED/ACCEPTED

MAY 18 2012

Federal Communications Commission
Office of the Secretary

To: Marlene H. Dortch, Secretary
Attention: Chief Administrative Law Judge Richard L. Sippel

SkyTel-H¹ Report Regarding Prehearing Conference

¹ Out of the originally identified "SkyTel" entities, attorney Robert Jackson represents Environmental LLC, Intelligent Transportation & Monitoring Wireless LLC and Verde Systems LLC ("SkyTel-O"). Mr. Havens represents himself pro se (as previously described to Presiding Judge Sippel) and also continues to represent the remaining SkyTel entities, namely Skybridge Spectrum Foundation, Telesaurus Holdings GB LLC and V2G LLC (Havens and the LLCs together, "SkyTel-H"). Havens is mindful of adhering to the applicable rules and procedures, and he did arrange for Mr. Jackson's counsel in the required time.

1. By Order, FCC 12M-24 (April 26, 2012), the Presiding Judge, Mr. Sippel, instructed that the SkyTel² entities meet and agree to certain matters with the Enforcement Bureau and counsel for Maritime Communications/Land Mobile LLC (“Maritime”) regarding the prehearing conference scheduled for May 22, 2012. SkyTel requested that the Enforcement Bureau and Maritime have a teleconference with SkyTel-H and SkyTel-O to comply with the Presiding Judge’s Order. The other parties agreed and the call was held on Friday, May 11, 2012. Exhibit 1 hereto documents the teleconference call including the substantive matters discussed.

2. The Enforcement Bureau submitted “Enforcement Bureau’s Status Report on Limitations for Prehearing Conference” on Monday, May 14, 2012, and therein, in paragraph 2, accurately states the three parties’ limited agreement reached on the Friday teleconference call. However, in addition, as was discussed at the teleconference call, the parties did not agree on other matters related to the upcoming prehearing conference. The instant filing by SkyTel-H sets forth certain details that SkyTel-H believes are important for the prehearing conference, and that are within the three parties’ agreed to limitations for the prehearing conference.³

3. Before setting forth those additional details, however, SkyTel-H agrees with the limitations proposed by the Enforcement Bureau, which Maritime does not agree to, including, but not limited to, that there should be no testimony by John Reardon, and no legal arguments

² The Order used the word “Skybridge”, but must have meant SkyTel.

³ The Presiding Judge’s Order did not order SkyTel to be a party to the stipulation described in the Order, but did order that SkyTel be a party to meeting and agreeing, as just described. The Presiding Judge permitted the Applicants to not attend the prehearing conference, but the Presiding Judge did not give any indication that any SkyTel entity would not be permitted at the prehearing conference. SkyTel-H thus intends to attend the prehearing conference and requests that its attendance be permitted by teleconference call, where at the same time attorney Robert Jackson would attend in person for SkyTel-O. Accompanying this report is a motion for leave to file, because the Presiding Judge’s Order did not instruct SkyTel-H (or SkyTel-O) to submit this report or any report on matters presented herein.

including with regard to the definition and scope of Commission rules and case law regarding construction (which includes coverage) and operation of the subject site-based stations.

4. The further details, indicated above, are given in the Exhibit 1 hereto. SkyTel-H set forth those details to the Enforcement Bureau and Maritime during the teleconference call last Friday, May 11, 2012, and in the related email (Exhibit 1) to be as clear as possible with the other parties, and to attempt to increase efficiencies in terms of the three parties' being prepared to address these details, as they choose (or as the Presiding Judge may require), at the prehearing conference, and otherwise in this hearing.

5. There are many important details regarding the subject "Issue (g)" in Exhibit 1. Among them, SkyTel-H notes in the text here several matters of particular importance (but the other matters are also important):

(1) As described in Exhibit 1, the "100 boxes" of documents in a storage facility in Northern Virginia that Maritime has previously described in this hearing, and in a related proceeding before the Wireless Telecommunications Bureau,⁴ as containing documents regarding the construction (including coverage) and operation of the site-based licenses that are subject to issue (g).⁵

(2) As described in Exhibit 1, SkyTel's outstanding discovery request to the Applicants. That is important to issue (g) for reasons indicated in Exhibit 1. Counsel for Applicants were incorrect to state to the Presiding Judge that the Applicants' participation in this hearing is not relevant to Issue (g) of the Hearing Designation Order, including, but not limited

⁴ See *Opposition to Petition to Dismiss, Petition to Deny, or in the Alternative Section 1.41 Request* filed by Maritime on August 8, 2011 regarding File No. 0004738157 and call sign WRV374 at its page number 3 (page 8 of the opposition document). The Opposition and its exhibit 1 are attached hereto as Exhibit 2.

⁵ A second time Maritime has identified these boxes is in this hearing in its filing "Response to Interrogatories" filed on February 6, 2012 (the "Interrog Responses"). This is attached hereto as Exhibit 3. See Exhibit 3 at its page number 10, response number 23.

to, that Maritime has suggested in the Interrog Responses that evidence of construction and operation of its incumbent stations are leases it has with various parties, including leases with Applicants (see e.g. the Interrog Responses at #8).

(3) As described in Exhibit 1, Maritime provided to the Enforcement Bureau a CD containing thousands of documents. That was in response to the joint SkyTel-Enforcement Bureau discovery requests to Maritime. Maritime provided the CD, at no cost, to the Enforcement Bureau, but has refused to provide a copy at the same time, and otherwise on the same basis, to SkyTel. In addition, Maritime has opposed the Enforcement Bureau's determination that the CD should be released in full to SkyTel under a FOIA request. Maritime gave no reasons under FOIA law that the CD can be withheld from disclosure and delivery to SkyTel. SkyTel-H made a third attempt to obtain the CD by requests to the Enforcement Bureau, citing relevant provisions from the Administrative Procedures Act and FCC rules. The Enforcement Bureau rejected the requests, but would not comment upon SkyTel-H asserted, relevant law as to why the Bureau has an obligation to release the CD because it clearly contains, and only contains, documents filed in this hearing of relevance to the hearing, and the parties, including SkyTel-H. SkyTel-H is not submitting here a formal motion to the Presiding Judge on this matter, but brings this to the Presiding Judge's attention for several reasons. First, SkyTel-H (and the undersigned believes SkyTel-O will join in this request) would like to discuss this topic at the prehearing conference for a resolution by the Presiding Judge. Second, SkyTel-H asserts that the action and position of Maritime, and secondarily the Bureau, prejudice SkyTel in the hearing.⁶

⁶ On the one hand, Maritime made much ado about producing these extensive records, which it purports to be of relevance to Issue (g) of the Hearing Designation Order. On the other hand, it appears that these records are not materially relevant to responding to the outstanding discovery requests issued to Maritime by the Enforcement Bureau and SkyTel, including since (i) the Enforcement Bureau emphatically states that Maritime has not responded with sufficient clear facts, and (ii) Maritime itself has stated that the documents regarding initial construction and

Regarding this CD issue, SkyTel has been waiting for the response by Maritime's attorney to the letter demand from attorney Robert Jackson. Maritime eventually responded, but only today. Maritime continues to refuse to provide a copy of the CD as stated above, on the same basis as it provided to the Enforcement Bureau. It seeks to charge several thousand dollars to SkyTel, when it charged nothing to the Bureau. SkyTel will ask that the Judge rule on matters of this CD as outlined above.

In this regard, SkyTel notes that it is obtaining, at very large cost (legal fees and other costs), a large quantity of documents of *direct, critical importance to issue (g)*: Under the Maritime position (noted above), SkyTel may charge for provide for those, at least if the Bureau or Maritime issues a proper formal discovery demand: and SkyTel may selectively not charge the Bureau, but charge Maritime, and under the Bureau (noted above), it would not give those copies to Maritime.

These positions of Maritime and the Bureau should be resolved, including for all the reasons indicated above.

(4) As described in Exhibit 1, SkyTel is involved in other legal proceedings in which facts are being sought and obtained of relevance to Issue (g) of the Hearing Designation Order. Attached at Exhibit 4 is SkyTel's "Motion of SkyTel for Rul 2004 Examination of NRTC and Related Production of Documents" issued to National Rural Telecommunications Cooperative ("NRTC").⁷

6. SkyTel-H has made clear to the Enforcement Bureau and Maritime counsel that it of course will make available documents it obtains from the "100 boxes", and from the NRTC

operation up to the purchase by Maritime from Mobex of the subject licenses are in a storage facility, and that it believed they were destroyed (the "100 boxes" that SkyTel has found, as described in Exhibit 1).

⁷ SkyTel-H understands that NRTC counsel is arranging with SkyTel counsel to proceed with the examination on reasonable terms.

2004 exam, and any other action outside this hearing, for purposes of this hearing, under reasonable conditions. SkyTel-H notes however that thus far Maritime has not expressed interest in these additional documents. From communications with the Enforcement Bureau, SkyTel-H understands that the Enforcement Bureau is not currently active in seeking these additional documents from SkyTel or directly, but is not opposed to SkyTel submission of documents that SkyTel believes are relevant to the hearing. SkyTel-H believes that the documents it has identified to the Enforcement Bureau and Maritime, substantially discussed herein, are of critical importance to Issue (g) of the Hearing Designation Order, as well as other issues in the hearing, and on that basis, differs from the position of the Enforcement Bureau and Maritime. SkyTel-H seeks to discuss this at the prehearing conference.

Attorney Robert Jackson for SkyTel-O stated last Monday, as shown in Exhibit 5 hereto, that SkyTel-O concurs with the substance presented by SkyTel-H to the Enforcement Bureau and Maritime shown in Exhibit 1. Likewise, Mr. Jackson will separately comment upon the instant Report. SkyTel-H believes that SkyTel-O, through Mr. Jackson, concurs with the substance of this filing.⁸

Respectfully Submitted,

May 18, 2012

By:

A handwritten signature in black ink, appearing to read "Robert Jackson", written over a horizontal line.

⁸ Although SkyTel-H entities and SkyTel-O entities are distinct legal parties, the undersigned manages all of the SkyTel legal entities, and attempts, as far as possible, to coordinate their respective positions, and minimize substantial differences, including to increase efficiencies in this hearing.

Warren Havens, Individually and as
President of each of the SkyTel-H entities:

Warren Havens
Skybridge Spectrum Foundation
Telesaurus Holdings GB LLC, and
V2G LLC

2509 Stuart Street
Berkeley CA 94705
Ph: 510-841-2220
Fx: 510-740-3412
Email: warren.havens@sbcglobal.net
jstobaugh@telesaurus.com

Certificate of Service

I, Warren Havens, certify that I have, on this 18th day of May 2012, caused to be served by placing into the USPS mail system with first-class postage affixed, unless otherwise noted, a copy of the foregoing filing to the following:⁹

The Honorable Richard L. Sippel
Chief Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Robert J. Keller
Law Offices of Robert J. Keller, P.C.
P.O. Box 33428
Washington, DC 20033

Robert J. Miller, Esquire
Gardere Wynne Sewell LLP
1601 Elm Street, Suite 3000
Dallas, TX 75201

Robert M. Gurss, Esquire
Paul J. Feldman, Esquire
Harry F. Cole, Esquire
Christine Goepp, Esquire
Fletcher, Heald & Hildreth, P.L.C.
1300 N Street, 11th Floor
Arlington, VA 22208

Kurt E. Desoto, Esquire
Joshua S. Turner
Wiley Rein LLP
1776 K Street, N.W.
Washington, DC 20006

Pamela A. Kane, Deputy Chief
Brian Carter
Investigations and Hearing Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W., Room 4-C330
Washington, DC 20554

Jack Richards, Esquire
Wesley K. Wright, Esquire

⁹ The mailed copy being placed into a USPS drop-box today may be after business hours, and therefore, not be processed by the USPS until the next business day.

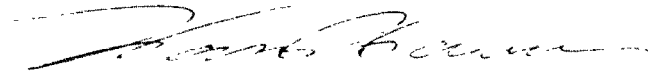
Keller and Heckman LLP
1001 G Street, N.W.
Suite 500 West
Washington, DC 20001

Albert J. Catalano, Esquire
Matthew J. Plache, Esquire
Catalano & Plache, PLLC
3221 M Street, N.W.
Washington, DC 20007

Charles A. Zdebski, Esquire
Eric J. Schwalb, Esquire
Eckert Seamans Cherin & Mellott, LLC
1717 Pennsylvania Avenue, N.W.
Washington, DC 20006

Jeffrey L. Sheldon, Esquire
Fish & Richardson, P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005

Robert H. Jackson, Esquire
Marashlian & Donahue, LLC
1420 Spring Hill Road – Suite 401
McLean, VA 22102



Warren Havens

Subject: Re: Presiding Judge's Order to meet and agree to limitations

Date: Friday, May 11, 2012 5:32:32 PM PT

From: Warren Havens <warren.havens@sbcglobal.net>

To: Pamela Kane <Pamela.Kane@fcc.gov>, Robert J. Keller <rjk@telcomlaw.com>

CC: Brian Carter <Brian.Carter@fcc.gov>, 'jstobaugh@telesaurus.com' <jstobaugh@telesaurus.com>, 'rhj@commmlawgroup.com' <rhj@commmlawgroup.com>

Ms. Kane,

SkyTel-H comments below. [*]

I believe Mr. Jackson is in accord with the substance of my notes below (if not all details and manner of expression), for SkyTel-O, but I ask him to comment separately (timing on this matter being what it is now).

The 100 boxes, and NJ Action in discovery.

- First, following our telecon today (thank you all again for your time) I have gotten a further summary understanding (but not the transcript yet) of the phone hearing today with judge in the NJ Action, including counsel for SkyTel and the Defendants (including Mobex and MCLM-- they are one "defendant group" by their own representations to the judge, including that Mobex merged into MCLM).
- I understand that the NJ case judge ordered that Mobex and its agents, as the currently asserted owners of the documents in the 100 (approx) Boxes in the VA storage facility [*] will not be permitted to remove any of the boxes from the storage facility. MCLM and Mobex are parties in this NJ action.
- A process will be involved, for purpose of the NJ case, for review of the documents. (Other details I don't know yet)
- I also understand that the facility owner, who is an attorney at law, after discussion with attorneys for parties in the NJ action, is going to arrange for a person to oversee access to the 100 Boxes, at all times anyone accesses any of the boxes and the contents.
- *Mr. Keller confirmed on our joint telecon today (persons on this email) that these 100 Boxes are not Maritime's property. Maritime is headed by John Reardon. I will report this to our NJ counsel for purposes of this matter in the NJ case. That is, Maritime including John Reardon will not take part in any attempt to access or review these 100 Boxes that are not its property.*

[*] I appreciate the firm response by Mr. Keller. But as indicated on our telecon today in part: It is my understanding at this time that, as to these 100 Boxes of records, the ownership, and control and privity, are open questions for many reasons, as is the legal ability and responsible persons in Mobex to act (re these 100 Boxes, etc.), since Mobex alleges to be dissolved and cannot act (it claims that before FCC and this NJ action, but has not acted like that in other actions, including before FCC and other courts. It apparently acts to pay its counsel. My position is public: Maritime is a case textbook sham entity under applicable Delaware Chancery Court precedent applied to the facts in the record, and it was formed to launder Mobex... and so here we are.)

As for the documents in the 100 Boxes use in the FCC hearing, SkyTel will of course cooperate--

- but also understands that the Enforcement Bureau may act directly, by further discovery demand, or by action directed to the storage company itself.
- I can provide the contact information if the Bureau asks for it.
- This FCC Hearing under 11-71 is of course different than the NJ case. This includes different criteria of evidence relevance, different discovery demands, different discovery procedures, etc. I do not try here to address that.
- I have thus far discussed the 100 Boxes in this FCC Hearing, following Mr. Keller's bringing this up to the EB, the Judge, and all the parties. But also, SkyTel identified these boxes previously in this Hearing (and before that, in WTB proceedings).

[*] SkyTel-H agrees to the joint statement, as you write:

"The scope of the Pre-hearing Conference shall be limited to outstanding discovery requests related to Issue (g) of the HDO on nonconstruction and/or discontinuance of operations."

SkyTel-H will separately state the to Judge, before the prehearing, certain items it plans to present within at the prehearing under this joint statement.

At this time, I expect these to include the following (but this may be modified for good cause) --

- The following is SkyTel attempt to make for a more efficient prehearing and subsequent action in the Hearing under the Judge's

meet-and-agree (attempt) Order, and his like previous statements.

- I do not mean by the below that the EB or Maritime will agree, but giving you this information will increase the chance of efficient discussion with the Judge: e.g., you should then not have or raise surprise as to what SkyTel believes is outstanding under issue (g) -
- in addition to particular unresolved issues reflected in EB / Maritime exchanges in the docket on issue (g).

-- Re the "100 Boxes --

1. A discussion of the boxes of documents warehoused in Woodbridge, VA, at the facilities of Nation's Capital Archive Storage Systems, Inc. ("NCASS") concerning the site-based licenses and stations under ownership of Maritime. I have been told these are about 100, total ("100 Boxes").

- Copies of documents with statements by Maritime in docket 11-71 and before the WTB as to the nature of these documents: showing they are relevant to issue (g). These statements show they are the apparent central depository of relevant documents to issue (g).
- Status on the documents, as to production in the NJ case, but also for access in the FCC Hearing.
- SkyTel will, of course, make available the documents it obtains of any possible relevance to the FCC Hearing (if any are under protected status, that of course will be ported into the FCC Hearing under its protective order).
- Note that SkyTel may also supplement, under rule 1.65, certain pending proceedings before the WTB and full Commission, with some of these documents. Those proceedings relate to issue (g).

2. A discussion of what I confirm here: that Ms. Kane and Mr. Keller agreed on the call today that the 100 Boxes appear to have documents that are relevant to the FCC Hearing. (Of course, correct me if I misunderstood.)

- Mr. Keller previously wrote in his email on this topic (cc'ed to the Judge) that he acknowledged the existence of the Documents and admitted "some portion of the [D]ocuments may be relevant" to issue (g).

3. A discussion of the ownership, control and knowledge of the documents in the 100 Boxes.

- Mr. Keller noted on our call today that he represented to the Judge that those documents are not property of Maritime (the email from Mr. Keller to Ms. Kane, cc'ed to the Judge, of just learning of the 100 Boxes that "Havens" is seeking via subpoena, which Maritime does not know if it will have access to, etc.).
- I asked Mr. Keller to please check with his client, Maritime, to confirm that position, that the 100 Boxes of records are not the property of Maritime. Mr. Keller repeated that representation to the Judge. SkyTel will proceed in reliance on that representation.

-- Re the CD --

4. Maritime reported that this CD had documents relevant to issue (g).

- First, the contents of the CD should be compared to the 100 Boxes.
- Maritime's refusal to provide SkyTel (SkyTel-H and SkyTel-O) a copy of this CD containing documents requested by the Bureau and Skytel, which were produced only to the Bureau, at no cost, allegedly in compliance with the Presiding Judge's February 16, 2012 Order.
- Maritime's opposition of the release of the CD under FOIA, but without raising any FOIA disclosure exemption conditions, suggesting that the Judge's order prevented Skybridge is obtaining what would otherwise be its right under FOIA law. (That the Judge's order modified FOIA law and rights.)
- The position of the EB that it cannot under law provide a copy, including under the APA statute and related FCC hearing rule I cited. (SkyTel would first double check this law prior to presentation to the Judge: thus far, it seems clearly applicable, but Ms. Kane made clear it will not be discussed. My raising this was under the principle in the Judge's meet-and-agree Order. In my view, the "meet" portion of "meet-and-agree" means to discuss relevant law. I am as an individual a party to this Hearing by the HDO, and have a right to self representation under the Constitution and case law. The Judge did not mean that I cannot represent myself pro se, since there is no question of the law in that matter.)

-- Re Outstanding SkyTel discovery to Applicants (those still in the Hearing) --

5. As stated above. As I described earlier, this is clearly relevant to issue (g), shown in written

evidence.

-- Re SkyTel other discovery in Maritime Bankruptcy, and NJ cases --

6. As stated above. This includes NRTC, which, per documents we have, is highly relevant relevance to issue (g).

-- Re EB Motion to Extend Discovery --

7. A discussion of the Bureau's Motion to Extend the May 26, 2012 Discovery Deadline.

- SkyTel agrees that this is needed-- including due to the new evidence to be forthcoming soon, in the "100 Boxes" and in other action noted above.

-- Perhaps more, after further review. --

Thank you, have a good weekend,

Warren Havens

From: Pamela Kane <Pamela.Kane@fcc.gov>
To: Warren Havens <warren.havens@sbcglobal.net>; Robert J. Keller <rjk@telcomlaw.com>
Cc: Brian Carter <Brian.Carter@fcc.gov>; "jstobaugh@telesaurus.com" <jstobaugh@telesaurus.com>; "rhj@commmlawgroup.com" <rhj@commmlawgroup.com>
Sent: Friday, May 11, 2012 2:14 PM
Subject: RE: Presiding Judge's Order to meet and agree to limitations

As we discussed during our earlier call, the Enforcement Bureau intends to file a document on Monday which reflects that the parties have been able to agree to the following:

The scope of the Pre-hearing Conference shall be limited to outstanding discovery requests related to Issue (g) of the HDO on nonconstruction and/or discontinuance of operations.

Please confirm the agreed-upon language.

From: Warren Havens [warren.havens@sbcglobal.net]
Sent: Friday, May 11, 2012 2:29 PM
To: Pamela Kane; Robert J. Keller
Cc: Brian Carter; 'jstobaugh@telesaurus.com'; 'rhj@commmlawgroup.com'
Subject: Re: Presiding Judge's Order to meet and agree to limitations

Ms. Kane,

I can discuss at that time. Please send the call in information.

I include Mr. Keller for Maritime here based on the Order:

"IT IS FURTHER ORDERED that prior to the Conference, Maritime, the Enforcement Bureau, and

Skybridge will meet and agree to limitations in writing, with copies to counsel."

Robert, if you are able, please join the call for SkyTel-O.

All,

As for the issue of the 100 or so boxes in the storage facility (that is the number we know of, approx.), SkyTel-H has serious concerns as to spoilage of records,[*] and are working to prevent it. The attorneys of MCLM (Maritime) -Mobex (inside and outside counsel) for many years have hid relevant evidence and/or destroyed it. I have explained this in past.

[*] I believe it is evident that MCLM-Mobex destroyed records, and hid them.

- First, there is no practical difference in destruction v. hiding (where the hiding runs through life cycles of relevant FCC licenses, business and service opportunities, and legal proceedings: this 11-71 Hearing is just one of the later proceedings). Second, no one puts their sole copies of critical records in outside storage.

- But MCLM-Mobex stated to FCC twice under oath that these records were, it assumed, destroyed due to non payment by MCLM-Mobex-- and it otherwise did not have these records. That means the non-stored copies were destroyed.

- Further, from my current understanding, I believe there is no difference (practically, and I expect legally) in hiding-destruction, and the persons in control (officers and attorneys) stating that they "assume" that the records they own and control were destroyed by a third party (that is readily accessible), but where they made no effort to verify that assumption with the third party. (SkyTel-H thinks they knew that assumption representation was a fraud, and expect to prove that up, along with the actual interactions.)

I attach a case in this regard, *Rambus v Infenion*, 222 F.R.D. 280 ("Rambus") that was sent to me recently. This case speaks for itself on the issue I address herein.

Ms. Kane,

I suggest that, if your Bureau has interest in Issue (g) (which also extends to the issues of character and fitness, sanctions, etc.), that you consider taking part in securing these records, and making clear to Mr. Keller for his client that it is to take no action to access or tamper with these records. I am also aware of FCC indications to me be, generally, not give the FCC any suggestions. However, due to the importance in my view (based on direct and indirect descriptions of MCLM-Mobex itself), I have informed in loud terms this issue of these 100 boxes (approx) to your Bureau and WTB (I have seen no interest to date), and others in DC law enforcement.

Mr. Keller,

To be clear (and respectful of your role, to the limits of the profession), please accept and take seriously my informal message above for what it represents to you and your client. If anyone associated with MCLM-Mobex acts in any way to access, tamper with, take, destroy, etc. these records, then SkyTel-H will take appropriate legal action (and may be joined by others we are communicating with, including in government), including to seek certain related attorney client communication records: As I am now commencing to understand: AC privilege does not apply in any such matter (such as, I believe, this current issue of these boxes in the VA storage facility-- and past actions to hid and destroy documents). See *Rambus* in this regard.

My statements above do not waive my past relevant positions.

I also reserve the right to modify my statements above after I have had the opportunity to consult with legal counsel.

This matter, however, is time sensitive and thus I communicate the above as best as I can, pro se.

Thank you,
Warren Havens

From: Pamela Kane <Pamela.Kane@fcc.gov>
To: "warren.havens@sbcglobal.net" <warren.havens@sbcglobal.net>; "rhj@commlawgroup.com" <rhj@commlawgroup.com>
Cc: Brian Carter <Brian.Carter@fcc.gov>; "jstobaugh@telesaurus.com" <jstobaugh@telesaurus.com>
Sent: Friday, May 11, 2012 7:18 AM
Subject: Re: Presiding Judge's Order to meet and agree to limitations

Mr. Havens: the Bureau can be available for a short call this afternoon. How is 4:30 eastern? Please let us know if that works and a call-in number as I am out of the office.

From: Warren Havens [<mailto:warren.havens@sbcglobal.net>]
Sent: Thursday, May 10, 2012 07:44 PM
To: Pamela Kane; 'rhj@commlawgroup.com' <rhj@commlawgroup.com>
Cc: 'rjk@telcomlaw.com' <rjk@telcomlaw.com>; Brian Carter; 'jstobaugh@telesaurus.com' <jstobaugh@telesaurus.com>
Subject: Re: Presiding Judge's Order to meet and agree to limitations

Ms. Kane and Mr. Carter,
and Mr. Keller:

The Order did not say (but as I note below) that SkyTel would sign the called for stipulation (perhaps that was an oversight), but did order that SkyTel meet and agree (or attempt it) as one of 3 parties. Thus, I have an obligation to do that, and am attempting it.

It seems to me the principle in the Order is not full agreement or nothing, but to try to agree to what is possible, and set out what is not agreed to.

But in addition, as I noted in my email of yesterday, as well as below:

This prehearing is about issue (g) and the stagnation in discovery on it, including Mr. Keller-Martime past position (and that of Maritime attorney and officers to WTB in 2011) that the critical records of the licenses' and stations' construction, lease, operation, etc. up to the sale to Maritime (or thereabouts) were destroyed.

However, they were not destroyed, and will soon be available in the Hearing.

It does not make sense, in my view, to not try to agree to present this issue to the judge. Including a plan to review these, bates stamp, etc. and after the review, report to the Judge. That seems to me entirely within what the judge wants to see-- progress in the case.

Thus, I suggest a call.

- I know EB position (sent out Monday)
- I have stated SkyTel-H position. Mr. Jackson is preparing notes for SkyTel-O position.
- Mar-time has told EB but not SkyTel of its position yet.

Thank you,
Warren Havens

From: Pamela Kane <Pamela.Kane@fcc.gov>
To: "warren.havens@sbcglobal.net" <warren.havens@sbcglobal.net>; "rhj@commlawgroup.com" <rhj@commlawgroup.com>
Cc: "rjk@telcomlaw.com" <rjk@telcomlaw.com>; Brian Carter <Brian.Carter@fcc.gov>; "jstobaugh@telesaurus.com" <jstobaugh@telesaurus.com>
Sent: Thursday, May 10, 2012 4:16 PM
Subject: Re: Presiding Judge's Order to meet and agree to limitations

Because two of the parties cannot agree we cannot have an agreed-upon document to file. Upon reconsideration of our earlier email, we believe the best course of action will be for each of the parties to file their own status report on the limitations.

From: Warren Havens [mailto:warren.havens@sbcglobal.net]
Sent: Thursday, May 10, 2012 06:51 PM
To: Pamela Kane; rhj@commlawgroup.com <rhj@commlawgroup.com>
Cc: 'rjk@telcomlaw.com' <rjk@telcomlaw.com>; Brian Carter; jstobaugh@telesaurus.com <jstobaugh@telesaurus.com>
Subject: Re: Presiding Judge's Order to meet and agree to limitations

All:

I am able to discuss tomorrow morning, if I am given a time and call in number in sufficient time. As for written comments, I provide some below that are relevant.

Re Order 12M-24. It notes that it was copied to Warren Havens, as well as to counsel. That appears to mean that Mr. Sippel believes I am (still) a party in matters of this Order. As I noted in this proceeding, I represent my self and several SkyTel LLCs ("SkyTel-H") Mr. Jackson represents other SkyTel entities ("SkyTel-O").

I comment below on the basis noted above. Below, "I" and "my" refer to SkyTel-H.

The Order includes:

Accordingly, IT IS ORDERED that the requested limitations and conditions will be permitted.

IT IS FURTHER ORDERED that prior to the Conference, Maritime, the Enforcement Bureau, and Skybridge will meet and agree to limitations in writing, with copies to counsel.

IT IS FURTHER ORDERED that Maritime and the Enforcement Bureau shall prepare a Joint Stipulation signed by counsel (1) stipulating to all trial issues of fact and law that can be stipulated, and (2) stipulating to all discovery issues that are agreed.

IT IS FURTHER ORDERED that such Agreement and Stipulations be filed by noon on May 14, 2012, with contemporaneous courtesy copies served by e-mail.

IT IS FURTHER ORDERED that the Prehearing Conference requested by Maritime shall be held at 10 a.m. on May 22, 2012, in OALJ Courtroom TWA-363.

Above, the Judge meant "SkyTel" by "Skybridge."

1. I did not get the Maritime proposal. Maritime cannot comply with the second Order above unless the "meet and agree" attempt includes SkyTel (which, as the Hearing record shows, includes SkyTel-H and SkyTel-O). I assume written exchanges are part of the "meet and agree" directive. That is how you are proceeding thus far.

2. I paste in below the May 7, 2012 2:25 PM from Ms. Kane.
I promptly responded to that, but did not hear back.

3. I refer to and do not waive my past positions in this Hearing and otherwise before the FCC, including all that I expressed in my email of yesterday to Ms. Kane and Mr. Keller (and other parties and the ALJ).

4. Ms. Kane's draft defined and used "Skybridge" but you mean "SkyTel" since that definition is used for SkyTel in this hearing, from the start.

- Skybridge Spectrum Foundation is not "SkyTel" but is one entity within the SkyTel definition.
- For Skybridge, as its President, I object to the use of the Skybridge in this way, since it suggests control by Skybridge (a distinct nonprofit entity) over other entities (that are for profit) and since FCC records are clear as to the actual entities.

5. The Order instructed that "Skybridge" (SkyTel) meet and agree on this draft. The Order then noted that Maritime and your Bureau submit a stipulation.

- However, if SkyTel is to "agree," it appears that SkyTel will be a party to the stipulation, even if SkyTel is not a party submitting it.

5.b. I believe the issue of the 90-some boxes in the storage facility (topic of the email of yesterday), is relevant to this prehearing, since those files concern the site based licenses. Getting and reviewing those is thus relevant to how this case proceeds.

6. The Order did not limit the issues in question to operations (as in your draft)--

- But it also included construction status.
- More broadly, the Order is about the overall discovery on issue (g), which is defined in the joint SkyTel- EB written discovery documents to Maritime, and Maritimes responses.

7. Overall, it is not clear what EB seeks to do under the Order.

- One the one hand, the discovery on issue (g) is broad, as are the unresolved responses.
- One the other hand, you seek to narrow issues at this upcoming prehearing.
 - While you do that in response to the Maritime request for a prehearing (as the Order says, for the purported purpose of "enlightening" the ALJ), the Order, as noted above, deals with all the broad issues in this discovery.

8. I believe that the ALJ may benefit from a presentation on:

(a) Facts.

Factual scope of the discovery, and facts not resolved yet, including:

- What are the issues in issue (g) in the HDO, FCC 11-64.
 - I have explained my view on that in detail, and assert that for the purpose of this meet-confer under the Order.
 - This includes: "construction," "coverage," (which is part of construction), "operations" (and its corollary, permanent discontinuance), and all of those include: the AMTS regulatory status as Part 80 CMRS and that includes use of Part 80 type approved equipment and Interconnected equipment and

service.

(b) Law related to these facts:

- The HDO text and ending summary on issue (g), and the text reference to 1.955, that includes "coverage" that is under 80.475(a)(1999).
- Bankruptcy law and if, other than "Second Thursday" (which is not at issue in issue (g) discovery), a FCC licensee can obtain relief from (i) discovery obligations, (ii) licensee obligations to turn back in stations that "auto terminated" due to failures of any of the above (construction, coverage, operation, equipment required, interconnection): there is no FCC law to support this, from what I recall from research.
- Leases should not (as far as I recall, from research) count toward operations, if the lessee is operating (not shown yet) but outside the authority of the subject license (all of the asserted leases are to entities seeking to buy the spectrum for PMRS, not CMRS: I do not recall of the leases themselves describe the use: but none of the lessees are CMRS operators).
- Whether the ALJ rescinded his Order for individuals to provide financial information and tax returns.

(c) SkyTel has outstanding discovery requests, as to issue (g), to the Applicants.

- Applicants include the lessees which Maritime asserts are operating some of its stations, and which seek to buy some site-based licenses and stations.
 - This is relevant to issue (g).

Thank you,
Warren Havens

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[BEGINNING OF PASTE IN]

From: Pamela Kane <Pamela.Kane@fcc.gov>
To: 'Bob Keller' <rjk@telcomlaw.com>; Robert Jackson <rhj@commlawgroup.com>; 'Warren Havens' <warren.havens@sbcglobal.net>; Jimmy Stobaugh <jstobaugh@telesaurus.com>
Sent: Monday, May 7, 2012 2:25 PM
Subject: Maritime: Proposed Agreement

Pursuant to the Presiding Judge's April 26, 2012 Order, enclosed for your consideration is a proposed agreement on limitations for the prehearing conference. Please let us know when you are prepared to discuss.

Pamela S. Kane
Deputy Chief -- Investigations & Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington , D.C. 20554
202-418-2393

[END OF PASTE IN]

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From: Pamela Kane <Pamela.Kane@fcc.gov>

To: "rhj@commlawgroup.com" <rhj@commlawgroup.com>; "warren.havens@sbcglobal.net" <warren.havens@sbcglobal.net>; "jstobaugh@telesaurus.com" <jstobaugh@telesaurus.com>
Cc: "rjk@telcomlaw.com" <rjk@telcomlaw.com>; Brian Carter <Brian.Carter@fcc.gov>
Sent: Thursday, May 10, 2012 2:48 PM
Subject: Presiding Judge's Order to meet and agree to limitations

All: Maritime proposed to the Bureau some amendments to the proposed agreement for limitations on the scope of the prehearing conference that the Bureau circulated earlier this week. The Bureau cannot agree to these amendments and was not able to reach any agreement with Maritime about alternative language. At this point, we expect to file something with the Judge that indicates the parties were not able to reach agreement on limitations. We expect to circulate a draft of that filing tomorrow.

Just a reminder, it must be filed by noon (eastern time) on Monday.

Pamela S. Kane
Deputy Chief -- Investigations & Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington , D.C. 20554
202-418-2393

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
MARITIME COMMUNICATIONS/)	
LAND MOBILE, LLC)	
)	File No. 0004738157
Application for Renewal of the License for)	
Automated Maritime Telecommunications)	
System WRV374)	

To: Marlene K. Dortch, Secretary
Attention: Chief, Wireless Telecommunications Bureau

**OPPOSITION TO PETITION TO DISMISS, PETITION TO DENY,
OR IN THE ALTERNATIVE SECTION 1.41 REQUEST**

Maritime Communications/Land Mobile, LLC, by its attorneys, hereby files its Opposition (Opposition) to the Petition to Dismiss, Petition to Deny, or in the Alternative Section 1.41 Request filed in the above captioned matter by Warren Havens, Environmental LLC; Verde Systems, LLC, Intelligent Transportation & Monitoring Wireless LLC; Telesaurus Holdings GB LLC, V2G LLC, and Skybridge Spectrum Foundation (collectively, Havens). In support of its position, MCLM shows the following.

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Summary of the Filing

Since its original grant in 1996, the license for station WRV374 has been renewed, assigned from Regionet Wireless License, LLC to Mobex Network Services, LLC; and then to Maritime Communications/Land Mobile, LLC (MCLM). Warren Havens (Havens) became interested in the Automated Maritime Telecommunications System (AMTS) band in 2000, and, ever since, indeed, for the past decade, Havens has badgered the various owners of WRV374, using the Commission's processes to abuse each successive licensee with mountains of paperwork, all claiming that the licensee at the time lacked character, failed to originally build, built incorrectly, and no longer operated.

Once again, for the umpteenth time in the past decade, Havens opposes the incumbent's ownership and renewal of the license for WRV374. In his petition, as so many times in the past, Havens is wrong on every count. Havens' claims that the original licensee of station WRV374 did not construct facilities in accord with the license are claims which are untimely, erroneous, and frivolous. MCLM presents the Commission with records which demonstrate construction by the original licensee.

Havens' study of the coverage of the WRV374 sites was immaterial to any valid issue and was not based on actual operating parameters, and made groundless assumptions, such as an arbitrary derating of antenna height. MCLM provides the Commission with its own study of the service contours using as-built parameters.

Havens' attempt to inflate trivial differences in geographic coordinates into claims of fraud were irresponsible. Between 1996 and today, the Commission changed the North American Datum which it required to be used for determining geographic coordinates and the United States allowed civilians access to more accurate Global Positioning System data. Havens provided no information concerning the standards and degree of accuracy used for his exhibits.

MCLM has not permanently discontinued any site of station WRV374. No Commission rule provides a basis for determining whether a station has been permanently discontinued. Permanent discontinuance can be determined only by reference to the intent of the licensee.

MCLM has not formed an intent to permanently discontinue operation of any site of station WRV374. MCLM provides extensive detail demonstrating actual station WRV374 operation and demonstrating MCLM's intent not to permanently discontinue any WRV374 site.

MCLM is within its rights to lease and sell spectrum. MCLM hired consultants and considered many possible uses of the spectrum after concluding that it could not make a profit by providing only maritime two-way service. Proceeding under the Commission's Secondary Markets policies and rules, MCLM has entered into a substantial number of agreements to

provide spectrum for railroads, utilities, and energy companies to meet their radio communication needs.

The Commission should dismiss or deny Haven's petition, grant the routine renewal of the license for station WRV374, and take tough measures to contain Havens' abusive, frivolous pleadings.

Havens Has Standing

MCLM concedes that at least one of Havens' entities has standing on the basis that it holds an AMTS license by which it can compete with station WRV374. MCLM does not concede that Havens has standing on any other basis or see any need for Havens to have consumed 12 pages of his Petition on standing.

Havens' "Original Construction" Claims Were Untimely

Havens raised a jumble of claims concerning station WRV374. Havens began by arguing that the license had automatically terminated "at its original construction deadline for failure to meet the requirements of §80.475(a) in effect at that time," Petition at 25. By such claim, Havens attempted to file an untimely petition to deny or petition for reconsideration of the application for renewal of license for station WRV374 filed by Regionet Wireless License, LLC on April 30, 2001, more than ten years ago. The timely construction of all of the sites of station WRV374 is *res judicata*; the Commission denied Havens' application for review on the issue a long time ago, see, Regionet Wireless License, LLC, 17 FCC Rcd 21269 (2002). Havens' frivolous claim that station WRV374 was not originally constructed must be dismissed on that basis, alone.

The Commission has heard enough about station WRV374. In dismissing yet another Havens attack on station WRV374, the Wireless Telecommunications Bureau (Bureau) stated that "with respect to Regionet's license to provide AMTS service to the Atlantic Coast under Call Sign WRV374, Havens has had a full opportunity to be heard by the Commission,"

Regionet Wireless License, LLC, 18 FCC Rcd 23068-71 (WTB 2003). The Bureau then recited a short history of Havens' attacks. Havens has no right to keep raising these dead issues; it was an abuse of process to demand that MCLM defend original construction which occurred over a decade ago, which construction was completed by a totally different company than MCLM and accepted by the Commission many times over the past ten years.

Havens' claims concerning facility construction and the construction notices filed by Regionet Wireless License, LLC also constitute an untimely petition for reconsideration of the Bureau's action in Mobex Network Services, LLC, 19 FCC Rcd 24939 (WTB 2004) (the Clarity Order), in which the Bureau explained that

the purpose of a construction notice is not to cancel the license for legitimately operating facilities. The Bureau's review of AMTS construction and operational information undertaken in anticipation of the AMTS auction confirmed that the vast majority of the facilities at issue were timely constructed. The additional information obtained during the Bureau's review is now reflected in our licensing database, and unconstructed facilities have been deleted,

Id. at para. 6. Havens presented no new information concerning the facilities of station WRV374 that he could not have obtained earlier. Further, although Havens claimed at his page 24, that MCLM had made impermissible major modifications, Havens provided no evidence, whatsoever, in support of that claim.

Havens' Petition also claims that station WRV374 did not meet the requirements of 47 C.F.R. §80.475(a), the Commission's former rule requiring continuity of coverage. This constitutes an untimely petition for reconsideration or application for review of the Order on Reconsideration of the Clarity Order, which noted that